(62)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION No. 1087 OF 2004

PETITIONER Ashok Kumar Sahu, S/o Shyam Lal Sahu, aged about 38 years, R/o. Vill. Adbhar, Tah. Malkharoda, Tah. Malkharoda, Distt. Janjgir Champa (CG)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through – Board of Revenue, Bilaspur (C.G.) Department of Forest, D.K.S. Bhawan, Raipur (C.G.).
2. Divisional Forest Officer, Janjgir – Champa Forest Division, District Janjgir- Champa (C.G.)
3. Sub Divisional Officer (Revenue), Sakti, District Janjgir - Champa (C.G.).

Present : Smt. Mala Dubey, learned counsel for the petitioner.
Shri Utkarsh Verma, learned Dy. Govt. Adv. for the State.

ORAL ORDER
(Passed on 17th April, 2006)

It is stated at the Bar by learned counsel for the petitioner that one Hira Lal was granted licence to run a Saw Mill. Subsequently, he found it difficult to run the same and, therefore, he executed an agreement on 24-04-1998 to sell the Saw Mill and a Flour Mill for a consideration of Rs.1,65,000/- and he received a sum of Rs.86,000/- under the said agreement. On the basis of that agreement, the petitioner made an application to the 2nd respondent to change the licence in the name of the petitioner. Accordingly, the 2nd respondent by his order dated 27-05-2003 changed the licence in the name of the petitioner. When Hira Lal came to know about this, he made an

application to the 2nd respondent that the document produced by the petitioner for change of licence in his name is a concocted document and, therefore, change of licence in the name of the petitioner should be cancelled. The 2nd respondent having conducted necessary enquiry by his order dated 23-07-2003 which is impugned in this writ petition, cancelled the registration of licence in the name of the petitioner. Hence, this writ petition.

(2) I have heard learned counsel for the parties.

(3) Admittedly, the 2nd respondent had granted licence to Hira Lal. The licence was registered in the name of the petitioner on the basis of the agreement to sell dated 24-04-1998 which is now seriously contested by Hira Lal terming it as a concocted document. Whether it is so or not, cannot be decided either by the 2nd respondent or by this Court in a summary proceeding under Article 226 of the Constitution of India. The question brought before the Court is a pure question of fact. In order to resolve that contentious factual issue, it becomes necessary for the Court to permit the parties to adduce evidence and tender them for cross-examination by each other. In that view of the matter, appropriate forum to decide the question is jurisdictional Civil Court. In that view of the matter, I dismiss the writ petition. No costs.

Sd/-
Chief Justice

Subbu